

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Net Magan Land Owner One, LP)
 Ward 073, Block 102, Parcel A00042) Shelby County
 Industrial Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$418,400	\$2,283,800	\$2,702,200	\$1,080,880

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 20, 2007 in Memphis, Tennessee. In attendance at the hearing were registered agent Jim Schwalls and Shelby County Property Assessor's representative Sandra Scoggins.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 5.02 acre tract improved with a 90,000 square foot distribution warehouse constructed in 1993 located at 3731 Distriplex Drive North in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$2,300,000 - \$2,400,000. In support of this position, the taxpayer introduced into evidence an income approach which Mr. Schwalls maintained supports a market value indication of \$2,390,000.

The assessor contended that subject property should be valued at \$2,702,200. In support of this position, Mr. Middleton introduced into evidence an income approach which he asserted supports a value indication of \$2,702,200. In addition, Mr. Middleton's analysis included summaries of comparable sales he argued also support the current appraisal of subject property. Finally, Mr. Middleton noted that subject property was part of a \$76,000,000 bulk sale of over 30 industrial properties on August 24, 2005. The value allocated to subject property was \$3,142,972.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged

in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

In view of the definition of market value, the income-producing nature of the subject property and the age of subject property, generally accepted appraising principles would indicate that the market and income approaches have greater relevance and should normally be given greater weight than the cost approach in the correlation of value indicators.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,702,200 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's analysis must be rejected for two reasons. First, no comparable sales were introduced into evidence. Second, and most importantly, the taxpayer's income approach appears to have a significant mathematical error.

The taxpayer contended that operating expenses should include an allowance for reserves of \$0.15 per square foot based upon the capitalization rate analysis prepared for Shelby County by LandAmerica Valuation Corp. According to the administrative judge's calculations, this should equate to a reserve allowance of \$13,500. The taxpayer's income approach, in contrast, utilizes reserves equal to \$36,644. It appears that the taxpayer utilized 15% of effective gross income ($\$244,296 \times 15\% = \$36,644$). The administrative judge finds that if reserves equal to \$13,500 are used rather than \$36,644, a value of \$2,666,618 results. The administrative judge finds that this value differs from the current appraise value of \$2,702,200 by an utterly insignificant 1%. Accordingly, the administrative judge finds that the taxpayer's own proof supports the assessor's contention of value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$418,400	\$2,283,800	\$2,702,200	\$1,080,880

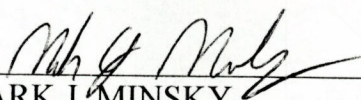
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 24th day of August, 2007.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls
 Tameaka Stanton-Riley, Appeals Manager